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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of	)	CC 96-61
	)	
AT&T Petition for Waiver of	)	CCB/CPD Docket No. 96-26
Section 64.1701 of	)	
the Commission's Rules	)	

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COMMENTS OF BELL ATLANTIC[1]

Not content with its current regulatory advantages, AT&T seeks to gain a further artificial advantage through regulatory sleight of hand. AT&T argues that the existence of Bell Atlantic's corridor service -- a unique service whose continuation was grandfathered under the 1996 Telecommunications Act -- entitles AT&T to a waiver from the Act's geographic rate averaging requirements. Despite the regulatory advantages that AT&T's existing service already enjoys over corridor, AT&T seeks even greater freedom. At the same time, it argues that the Commission should deny any regulatory flexibility for the Bell Atlantic service it competes with. It can't have it both ways. The Commission should reject AT&T's latest attempt at regulatory gamesmanship, and instead should act on Bell Atlantic's long-standing petition that would allow corridor service to compete on more equal terms with large interLATA service providers such as AT&T.

[1] This filing is on behalf of Bell Atlantic Communications, Inc. and the Bell Atlantic telephone companies ("Bell Atlantic"), which are Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; and Bell Atlantic-West Virginia, Inc.

I. The Procedural History Reveals AT&T's Machinations

Corridor service was originally provided under a limited exception to the AT&T consent decree's restrictions on the ability of the Bell operating companies to provide interLATA service, and is subject to sharply constrained service parameters. The corridors were created "to continue [local carriers'] long-standing interstate service arrangement in two areas: (1) between New York City and Northern New Jersey; and (2) between Philadelphia and Camden, New Jersey."[2] The service was "sanctioned specifically to preserve for interstate callers in these areas the advantages of the exisitng local networks."[3] Because the service was limited to these geographic corridors, customers favored providers of generic interLATA service. Despite significantly lower prices, the bulk of customers in the corridor flocked to Bell Atlantic's competition, primarily AT&T.[4]

In order to alleviate at least some of regulatory disadvantages imposed on corridor service, Bell Atlantic petitioned the Commission well over a year ago to regulate its corridor service as nondominant -- just as it does for providers of other interLATA services. AT&T opposed that petition, arguing that the Commission should continue to apply restrictive pricing and tariff requirements uniquely on Bell Atlantic because Bell Atlantic has allegedly "exercised market power to impede competition on the merits in the corridors."[5]

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2 ***United States v. Western Electric Co.***, 569 F. Supp. 990, 1002, n. 54 (D.D.C. 1983).

3 ***United States v. Western Electric Co.***, 569 F. Supp. 1057, 1107 (D.D.C. 1983).

4 Approximately 90% of the customers in the corridor area never use Bell Atlantic's corridor service. ***Petition to Regulate Bell Atlantic as a Nondominant Provider of Interstate InterLATA Corridor Service***, DA 95-1666, Petition of Bell Atlantic at 4-5 (filed July 7, 1995) ("Bell Atlantic Corridor Petition").

5 ***Petition to Regulate Bell Atlantic as a Nondominant Provider of Interstate Interexchange Service***, DA 95-1666, Comments of AT&T at 6 (filed Aug. 25, 1995).

Now, faced with legislatively mandated rate averaging requirements that limit its ability to isolate corridor service through targeted rate reductions to long distance customers in that area, AT&T makes an about face and argues that customers in the corridor area "benefit from the highest degree of competition possible."[6] AT&T would have its own services available without any tariff requirements and with the rate averaging and integration rules waived, while at the same time corridor service would continue to be subject to the most restrictive tariff and pricing rules imposed on any carrier. This is AT&T's vision of how to "foster greater competition."[7]

II. Corridor is a Distinct Service

AT&T argues that Bell Atlantic is "in apparent violation of the rate averaging rules" because its separated affiliate, Bell Atlantic Communications, Inc. ("BACI") charges different rates for its generic long distance service than Bell Atlantic's local exchange carriers charge for limited corridor service.[8] As a result, AT&T would have the Commission require an increase in the rates for corridor service.

As Bell Atlantic has previously demonstrated,[9] AT&T is wrong because corridor is a distinct service. The rate averaging requirement cannot be extended to require uniform pricing of

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6 AT&T Petition at 5 (filed Oct. 23, 1996).

7 ***Id***. at 2, n.2.

8 ***Id***. at 4.

9 ***See Policy and Rules Concerning the Interstate, Interexchange Marketplace***, CC Docket No. 96-61, Reply Comments of Bell Atlantic (filed Nov. 5, 1996) ("Bell Atlantic Reply Comments"). For the convenience of the Commission, a copy of that pleading is attached as Exhibit 1and only briefly summarized here.

unlike services.[10] In contrast to generic long distance service, which has no limits on its reach, corridor service is geographically constrained, and can only be used within the predetermined corridor areas. Indeed, not only is Bell Atlantic corridor service distinct from generic long distance service, it is regulated differently as well. As Bell Atlantic has shown, current regulations would prevent Bell Atlantic from raising its corridor rates to match current long distance rates.[11] They also limit the ability of the operating telephone companies to coordinate their provision of corridor service with the generic long distance service provided by a separated long distance affiliate.[12]

AT&T makes the unsubstantiated claim that Bell Atlantic is able to charge lower prices for its corridor service because of "higher access charges AT&T must pay Bell Atlantic."[13] This is untrue, and AT&T knows it to be untrue. As required, corridor service pays (and publicly reports) the full tariffed access rates as an imputed expense.[14] It receives no special discounts over the rates paid by AT&T.[15]

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10 If the Commission should nevertheless find that its rules require that corridor service rates must be averaged with Bell Atlantic affiliates' generic long distance services, Bell Atlantic hereby requests that the Commission grant AT&T's petition in part for the limited purpose of providing Bell Atlantic a waiver of those rules with respect to its corridor service.

11 Bell Atlantic Reply Comments at 4.

12 ***See*** 47 U.S.C. § 272; ***see also Bell Operating Company Provision of Out-of-Region Interstate, Interexchange Services***, CC Docket No. 96-21, Report and Order, ¶ 19 (rel. July 1, 1996).

13 AT&T Petition at 4.

14 ***See*** 47 C.F.R. § 61.44(b).

15 Indeed, because corridor service imputes a transport rate based on the average charge to all carriers, it is likely that it pays a ***higher*** rate than AT&T which, because of its size, can take advantage of the relatively less expensive high-capacity services.

Nor is AT&T in any sense at a competitive disadvantage in the corridor. AT&T has many options to fully compete with corridor service without the need for a waiver. First, it can introduce promotions, up to 90 days in duration, that are limited to the corridor area. Second, it can lower its prices nationally to a level equivalent to or lower than corridor service.[16] Indeed, AT&T already advertises that for a select subset of its customers, AT&T's generic long distance service in the corridor area is cheaper than Bell Atlantic's corridor service.[17] Third, AT&T can create its own geographically limited corridor service that would compete with Bell Atlantic's service. If AT&T were to create a long distance product that had the same geographic limitations as Bell Atlantic's corridor service, AT&T could price that service to compete with corridor, irrespective of how AT&T priced its generic long distance service. AT&T has no need for a waiver to offer the same product as Bell Atlantic. AT&T's waiver request is grounded merely in a desire to obtain a further regulatory advantage, while continuing to deny Bell Atlantic any regulatory relief.

In contrast, Bell Atlantic's corridor service is at a genuine disadvantage in competition with AT&T and other long distance carriers. As demonstrated in a petition now pending before the Commission, only Bell Atlantic is blocked from offering generic long distance service, and only Bell Atlantic is further burdened by restrictive Commission rules, including price cap

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16 AT&T's costs do not constrain its ability to reduce its nationwide rates. As numerous studies have shown, AT&T's current rates far exceed its costs of doing business. See P. MacAvoy, THE FAILURE OF ANTITRUST AND REGULATION TO ESTABLISH COMPETITION IN LONG-DISTANCE TELEPHONE SERVICES at 4-5 (1996) (AT&T has "considerable capacity for reductions in margins" with an average margin of 48%).

17 ***See, e.g.***, AT&T advertisement from the Newark Star-Ledger (Nov. 7, 1996), attached as Exhibit 2.

regulation, that limit its ability to offer new and modified service options on a timely basis.[18] Indeed, since Bell Atlantic filed its petition, the Commission has classified AT&T as a nondominant carrier, and most recently ordered the elimination of all tariff requirements for such carriers. Bell Atlantic is left uniquely subject to such restrictions.

Conclusion

The Commission should deny AT&T's petition and instead recognize that Bell Atlantic corridor service is in compliance with rate averaging requirements and that no further waivers are needed here. Moreover, the Commission should act on Bell Atlantic's outstanding petition and regulate Bell Atlantic as a nondominant provider of corridor service.

Respectfully submitted,

Edward Shakin

1320 North Court House Road
Eighth Floor
Arlington, VA 22201
(703) 974-4864

Attorney for the
Bell Atlantic Telephone Companies
and Bell Atlantic Communications, Inc.

Edward D. Young, III
Michael E. Glover
Of Counsel

November 18, 1996

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[18] *See* Bell Atlantic Corridor Petition.

EXHIBIT 1

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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NOV 5 1996
Federal Communications Commission
Office of Secretary

In the Matter of	)	
	)	
Policy and Rules Concerning the Interstate, Interexchange Marketplace	)	CC Docket No. 96-61
	)	
Implementation of Section 254(g) of the Communications Act of 1934, as amended	)	

REPLY COMMENTS OF BELL ATLANTIC[1]

In its petition for reconsideration and clarification, GTE requests that rate averaging and rate integration rules not be extended to include a parent company that is not a carrier and does not ***provide*** telecommunications services.[2] The opposition filed by AT&T argues that, not only should the Commission deny the GTE petition, but it should also extend the reach of its rules to require that rates be averaged even between distinct services -- *i.e.* one affiliate's unlimited long distance service and another affiliate's corridor-only service.[3] But extending the averaging

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[1] This filing is on behalf of Bell Atlantic Communications, Inc. and the Bell Atlantic telephone companies ("Bell Atlantic"), which are Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; and Bell Atlantic-West Virginia, Inc.

[2] GTE Service Corporation Petition for Reconsideration and Clarification (filed Sept. 16, 1996).

[3] In its Opposition, AT&T argues that rate averaging rules apply regardless of corporate affiliates established for "regulatory" reasons. AT&T Opposition to Petitions for Reconsideration and Clarification at 2 (filed Oct. 21, 1996). In a separate petition, AT&T elaborates on the impact of its arguments here and claims that the rate averaging and integration rules should apply across different services: generally available long distance service offered by a separated affiliate and narrowly limited corridor service offered by a local carrier. ***See AT&T Petition for Waiver of Section 64.1701 of the Commission's Rules***, CCB/CPD Docket No. 96-26, Petition at 6 (filed Oct. 23, 1996).

requirement to such dissimilar services simply makes no economic sense, is contrary to the policies that underlies the averaging requirement, and is harmful to consumers. Regardless of how it rules on GTE's petition, the Commission should reject AT&T's arguments and should instead clarify that corridor is a distinct service that is under no obligation to coordinate its rate levels with those of generic long distance service offered by an affiliate.

Corridor service was originally provided under a limited exception to the AT&T consent decree's restrictions on the ability of the Bell operating companies to provide interLATA service, and is subject to sharply constrained service parameters. The corridors were created "to continue [local carriers'] long-standing interstate service arrangement in two areas: (1) between New York City and Northern New Jersey; and (2) between Philadelphia and Camden, New Jersey."[4] By definition, the service must be limited in geographic scope, and unlike long distance service reaches only "a tiny fraction of the available profitable routes in the country."[5] Indeed, corridor service must originate at one end of a limited pre-defined geographic corridor and must terminate at the other end.

Because of these constraints, corridor is a unique service. In contrast to the corridor service offered by Bell Atlantic's operating telephone companies, the generic long distance services provided by Bell Atlantic's long distance affiliate, Bell Atlantic Communications, Inc. ("BACI"), like the services of other long distance providers, offer connection to any point in the country and beyond. Other than corridor, no Bell Atlantic affiliate offers a direct trunked switched interLATA service with narrowly-constrained geographic coverage. Thus, even if

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4 ***United States v. Western Electric Co.***, 569 F. Supp. 990, 1002, n. 54 (D.D.C. 1983).

5 ***Id.*** at 1023.

corridor service was offered by a single provider, there is no equivalent service with which to average corridor rates.

Not surprisingly, the more limited corridor service has been priced lower than generic long distance service.[6] Contrary to AT&T's argument, this price difference violates no rules and in fact was intended by regulators that sought to have consumers benefit from the particular cost efficiencies associated with the network in the limited area of allowed service.[7] Congress recognized the continued importance of this unique service by including a provision in the 1996 Act that grandfathered the exception into the new law, and thereby allowed corridor service to continue without the limitations placed on other in-region interLATA services.[8] Ironically, if the Commission were to require corridor service to be priced at the same rates as the generic long distance services offered by another Bell Atlantic affiliate, consumers could lose the benefit of the lower prices that the corridor exception was created to provide.

The Commission has continued to treat corridor differently from generic long distance service. For its out-of-region long distance services, BACI is a nondominant carrier with no price regulation and soon to be without tariffs. In contrast, corridor is a tariffed service that is

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6 ***See Petition to Regulate Bell Atlantic as a Nondominant Provider of Interstate InterLATA Corridor Service*** ("Corridor Petition"), DA Docket No. 95-1666, Declaration of Robin A. Lewis-Ivy at ¶ 8 (filed July 7, 1995).

7 ***See United States v. Western Electric Co.*** at 1018, n. 142 (Court recognized that denying service in the corridors would require consumers to "relinquish an efficient, convenient service" while at the same time pay for "particularly huge rearrangement costs.")

8 47 U.S.C. § 271(f).

currently under LEC price cap rules.[9] Indeed, given current rate regulation, Bell Atlantic could not lawfully raise corridor rates to bring them into alignment with BACI's basic service rates.[10]

The Commission need not worry about how to reconcile this or other regulatory conflicts.[11] Because corridor is a distinct service, the Commission need only clarify there is no rate integration or averaging requirement that would force corridor service to coordinate rates with the different generic long distance service offered by an affiliate.

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9 Bell Atlantic has a long-standing petition pending to remove corridor service from price regulation. ***See*** Corridor Petition. Approval of that petition would not change the fundamental difference between corridor and more generic long distance services.

10 ***See*** 47 C.F.R. §§ 61.42(d)(4), 61.49; Bell Atlantic Transmittal No. 777 (filed May 9, 1995).

11 Any attempt by Bell Atlantic to coordinate rates between BACI and local companies' corridor service could run afoul of the separation rules imposed on BACI by the Commission and the Act. ***See*** 47 U.S.C. § 272; ***see also Bell Operating Company Provision of Out-of-Region Interstate, Interexchange Services***, CC Docket No. 96-21, Report and Order, ¶ 19 (rel. July 1, 1996).

Conclusion

Regardless of how it rules on GTE's petition for reconsideration, at a minimum the Commission should clarify that its rules do not impose a rate averaging requirement between corridor service and more generic interLATA services.

Respectfully submitted,

Edward Shakin

1320 North Court House Road
Eighth Floor
Arlington, VA 22201
(703) 974-4864

Attorney for the
Bell Atlantic Telephone Companies
and Bell Atlantic Communications, Inc.

Edward D. Young, III
Michael E. Glover
Of Counsel

November 5, 1996

EXHIBIT 2

NEWARK STAR-LEDGER
NOVEMBER 7, 1996

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+NJB
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It just doesn't add up.

Bell Atlantic is trying very hard to
convince you that if you dial 10-NJB
every time you call New York you'll save over AT&T.
The fact is, if you use AT&T for those same calls
and you're enrolled in AT&T **True Reach** Savings℠ and
spend just twenty-five dollars each month, you save over
Bell Atlantic's basic rates every time you call New York.
And all you dial is 1 before the number.
If you'd like to learn more, just give us a call
at 1 800-479-1222.

AT&T

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of November, 1996 a copy of the foregoing "Comments of Bell Atlantic" was served on the parties on the attached list.

Tracey DeVaux

Tracey DeVaux

* Via hand delivery.

Chief, Competitive Pricing Division*
Federal Communications Commission
1919 M Street, NW
Room 518
Washington, DC 20554

ITS, Inc.*
1919 M Street, NW
Room 246
Washington, DC 20554

Mark Rosenblum
Monica Otte
Richard Rubin
AT&T Corp.
Room 325213
295 North Maple Avenue
Basking Ridge, NJ 07920